**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**CHAMBER SUMMONS NO.1250 OF 2006**
**IN**
**SUIT NO.1226 OF 1986**

Dr.R.R.Trivedi & ors ..Plaintiffs

V/s.

M/s.Shakti Prints Pvt. Ltd. & ors ..Defendants

Mr.U.M.Mahajan i/b. Divekar & Co. for the plaintiffs
Mr.Deepak Chitnis, advocate, for the defendant Nos.1 and 2

**CORAM : A.S.OKA, J.**

**DATE : 14TH SEPTEMBER, 2007**

**P.C.**

1. Learned counsel appearing for the plaintiffs in support of Chamber Summons states that Chamber Summons has been duly served to all concerned parties including the proposed legal representatives. He has tendered on record an affidavit of service. I have heard learned counsel appearing for the defendant Nos.1 and 2. None appears for the proposed legal representatives as well as defendant No.4. In view of averments made

in affidavit in support of the Chamber Summons and especially paragraphs 5 to 7 thereof, a case is made out for condoning the delay and for setting aside abatement. It is stated in the affidavit in support that the plaintiffs were not aware about the death of defendant No.3 till 25th July, 2006 when the Advocate for the defendant Nos.1 and 2 informed advocate for the plaintiffs that defendant No.3 had died on 8th August, 1987. By letter dated 25th July, 2006 the Advocate for the defendant Nos.1 & 2 informed the plaintiffs' advocate the names of the legal representatives of the deceased defendant No.3.

2. The Chamber Summons has been taken out on 22th September, 2006. I have also perused further affidavit in support of the Chamber Summons.

3. As the averments made in the affidavit in support have remained unchallenged, the Chamber Summons deserves to be made absolute. Accordingly, Chamber Summons is made absolute in terms of prayer clause (a) to (d). Amendment to be carried out

within a period of three weeks.

(**A.S.OKA, J.**)